

MEMORANDUM

DATE: October 23, 2007

TO: United States Department of Agriculture
Office of the Assistant Secretary for Civil Rights

FROM: Daniese McMullin-Powell, Chairperson
State Council for Persons with Disabilities

RE: 11 DE Reg. 325 [Final Non-discrimination Regulation]

I write on behalf of the State Council for Persons with Disabilities (SCPD) regarding the Delaware Department of Health and Social Services/Division of Social Services' (DSS) final regulations regarding its non-discrimination standards and processing of discrimination complaints. The regulations were published as 11 DE Reg. 325 in the September 1, 2007 issue of the Register of Regulations (attached).

As background, SCPD commented on the proposed version of these regulations in the attached July 30, 2007 memorandum. Specifically, Council submitted five (5) recommendations which are reproduced in the final regulation at p. 326. The Division of Social Services has now adopted final regulations with no revisions prompted by the Councils' observations. Instead, the Division lists the five (5) recommendations and then characterizes them as "important" and notes that it "will consider (your) comments in the future when this section is under revision again." At p. 327.

SCPD solicits the Office of Civil Rights' perspective on one (1) significant deficiency, i.e., the Division's treatment of "retaliation". Literally, the DSS regulation makes no sense. It recites that "(w)e will not discriminate against any applicant or participant ...for reasons of retaliation". In contrast, SCPDs July 30th commentary (2nd observation) included an analogous USDA reprisal standard and recommended that DSS adopt a variation of that standard. However, Council was unsuccessful and would now appreciate the federal government's guidance to prompt State adoption of a regulation that conforms to the federal law.

Thank you for your consideration and please contact SCPD if you have any questions or comments regarding this issue.

cc: Office of Adjudication and Compliance
Governor's Advisory Council for Exceptional Citizens
Developmental Disabilities Council

